

A-E CONTRACTING BULLETIN 97-02, 20 FEB 97

SUBJECT: Overseas A-E Contracts

1. DFARS 236.602-70 was recently issued under DFARS Case 96-D329 to implement Section 111 of the FY97 MILCON Appropriations Act. It restricts the award of A-E contracts over \$500,000 for MILCON projects in many overseas countries to only U.S. firms or their joint ventures with host nation firms. The actual language is:

"236.602-70 Restriction on award of overseas architect-engineer contracts to foreign firms.

In accordance with Section 111 of Public Law 104-32 and similar sections in subsequent military construction appropriations acts, A-E contracts funded by military construction appropriations that are estimated to exceed \$500,000 and are to be performed in Japan, any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Gulf, shall be awarded only to United States firms or to joint ventures of United States and host nation firms."

2. Two points of clarification are necessary. First, "to be performed in" means the project location, not the A-E's office location. Second, even though the U.S. is a NATO country, this provision does not apply to MILCON projects in the U.S. There is no authority to restrict the award of A-E contracts for projects in the U.S. to only U.S. firms.

3. This bulletin has been coordinated with Laura Meeker, Senior Counsel for Procurement Policy, and MAJ(P) Jeffrey Hills, Acting Chief, Contract Policy Division, PARC.

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